

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA

Allianz Life Insurance Company of North  
America,

Plaintiff,

v.

Brandon Leon, Elizabeth Leon, Milton  
Styron, Jr., John Bezosky, Jr., and Mary  
Margaret McKinney f/k/a Mary Margaret  
Bezosky,

Defendants.

John Bezosky, Jr., and Mary Margaret  
McKinney, f/k/a Mary Margaret Bezosky, ,

Third-Party Plaintiffs,

v.

Neal K. Miller and The New Millennium  
Group, a New York Entity,

Third-Party Defendants.

Case No. C05-5116FDB

STIPULATION AND ORDER OF  
DISMISSAL, FOR DISTRIBUTION OF  
FUNDS, AND FOR APPROVAL OF  
MINOR SETTLEMENT

**RECITALS**

1. John Spinelli, Sr. purchased an Accumulator 8 annuity, effective March 11, 1993, with Policy No. 2448052. He annuitized the policy choosing the Benefit Deposited with Interest Option over a five-year period with the first payment beginning on November

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Attorneys at Law  
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1 18, 2000. Mr. Spinelli received interest payments of \$128.66 each month. The annuitization  
2 value on the date of Mr. Spinelli's death was \$44,813.78. The lump sum cash value of the  
3 annuity on the date of Mr. Spinelli's death was \$38,212.28.

4         2.       The original primary beneficiary named on the application was John Spinelli,  
5 Jr. In 1994 Mr. Spinelli, Sr., changed the primary beneficiary as follows: 32% to Brandon  
6 Leon, his great grandson; 17% to Elizabeth Leon, his granddaughter; 17% to Milton Styron,  
7 Jr., his grandson; 17% to John Bezosky, Jr., his nephew, and 17% to Mary Margaret  
8 Bezosky, n/k/a Mary Margaret McKinney, his niece.

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10         3.       John Spinelli, Sr. died on May 4, 2004.

11         4.       After sending out claim forms to the beneficiaries named in November of  
12 1994, Allianz Life was notified by John Spinelli Sr.'s agent, Neal Miller, that Mr. Spinelli  
13 had executed a handwritten beneficiary change dated October 9, 2000. This handwritten  
14 request changed the beneficiary designation to John Bezosky, Jr., and Mary Margaret  
15 Bezosky, n/k/a Mary McKinney, each receiving 50% of Policy No. 2448052.

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17         5.       In October of 2004, Allianz Life notified the interested parties that it would  
18 pay the beneficiaries of record unless a formal objection was filed. The beneficiaries were  
19 given the option to (1) continue the benefit deposited with interest option until October 18,  
20 2005, at which time they will receive their portion of the \$44,813.78 accumulation value, (2)  
21 select an alternative annuity option settlement, or (3) receive the reduced lump sum cash  
22 value which totals \$38,212.28. John Bezosky, Jr. and Mary Margaret McKinney objected.  
23 Thereafter, Allianz Life sent letters to the parties encouraging them to reach an amicable  
24 resolution to the situation.  
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SEA/112928/141501/MAT/346463.1

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8. An independent guardian ad litem, J. Alece Cox, was appointed to represent the minor, Brandon Leon. Her report, attached hereto as Exhibit A, finds (a) that there is no allegation that John Spinelli, Sr.'s handwritten October 9, 2000 beneficiary change request was acquired by fraud, undue influence or coercion, or any allegation that the handwriting on the change request was forged, (b) that the policy allows for changes to the beneficiary designation to take effect as of the date signed, even if Mr. Spinelli was deceased as of the date Allianz Life's home office recorded the change, and (c) that Brandon Leon does not want to contest distribution of the annuity. Ms. Cox recommended that the agreement to dismiss this action as to Brandon Leon should be confirmed. No funds will be disbursed to Brandon Leon.

The parties and their lawyers being fully advised in this matter, hereby agree and stipulate as follows:

2. Upon all parties signing this Stipulation, Allianz Life shall pay the proceeds of annuity no. 2448052 to John Bezosky, Jr., and Mary McKinney, each receiving fifty percent (50%).

3. Each party shall bear its own fees and costs associated with this interpleader.

4. The guardian ad litem's fees shall be paid by John Bezosky, Jr., and Mary McKinney.

5. Upon all parties signing this Stipulation, payment of the proceeds of the annuity as set forth above, and filing this Stipulation with the Court, the Court shall dismiss this action, including all claims, counterclaims, and third-party claims, with prejudice.

Dated: \_\_\_\_\_

Matt Turetsky  
Schwabe, Williamson & Wyatt  
1420 Fifth Ave.  
Seattle, WA 98101-2393  
(206) 689-1222  
**ATTORNEYS FOR PLAINTIFF  
ALLIANZ LIFE INSURANCE COMPANY  
OF NORTH AMERICA**

Dated:

Rogers S. Wilson, Esq. (WSBA No. 5405)  
Attorney at Law  
918 North Yakima Avenue  
Tacoma, WA 98403  
(253) 572-2440  
**ATTORNEY FOR DEFENDANTS**  
**BRANDON LEON, ELIZABETH LEON,**  
**MILTON STYRON, JR.**

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1 Dated: \_\_\_\_\_

2 J. Bradley Buckhalter (WSBA No. 29295)  
3 Gordon, Thomas, Honeywell, Malanca,  
4 Peterson & Daheim, LLP  
5 1201 Pacific Avenue, Ste. 2100  
6 P.O. Box 1157  
7 Tacoma, WA 98401-1157  
8 **ATTORNEY FOR DEFENDANTS**  
9 **JOHN BEZOSKY, JR., MARY**  
10 **MARGARET MCKINNEY**

11 **ORDER**

12 Pursuant to the foregoing stipulation of the parties, the Court hereby orders:

- 13 1. The settlement of the claims of the minor Brandon Leon is reasonable.  
14 2. The guardian ad litem's fees shall be paid by John Bezosky, Jr., and Mary  
15 McKinney.  
16 3. This case shall be dismissed with prejudice, each party bearing its own fees  
17 and costs.

18 DATED this 13<sup>th</sup> day of March 2006.

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20 **FRANKLIN D. BURGESS**  
21 **UNITED STATES DISTRICT JUDGE**

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